

E N G R O S S E D  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 19**

(By Senator Plymale)

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[Originating in the Committee on Education;  
reported February 6, 2015.]

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A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to setting forth minimum days per week, number of instructional minutes per week and minimum instructional days per year for early childhood education programs.

*Be it enacted by the Legislature of West Virginia:*

That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-44. Early childhood education programs.**

1       (a) For the purposes of this section, “early childhood  
2 education” means programs for children who have attained the  
3 age of four prior to September 1 of the school year in which  
4 the pupil enters the program created in this section.

5       (b) *Findings.* –

6       (1) Among other positive outcomes, early childhood  
7 education programs have been determined to:

8       (A) Improve overall readiness when children enter school;

9       (B) Decrease behavioral problems;

10      (C) Improve student attendance;

11      (D) Increase scores on achievement tests;

12      (E) Decrease the percentage of students repeating a grade;

13      and

14      (F) Decrease the number of students placed in special  
15 education programs;

16      (2) Quality early childhood education programs improve  
17 school performance and low-quality early childhood

18 education programs may have negative effects, especially for  
19 at-risk children;

20 (3) West Virginia has the lowest percentage of its adult  
21 population twenty-five years of age or older with a  
22 bachelor's degree and the education level of parents is a  
23 strong indicator of how their children will perform in  
24 school;

25 (4) During the 2006-2007 school year, West Virginia  
26 ranked thirty-ninth among the fifty states in the percentage of  
27 school children eligible for free and reduced lunches and this  
28 percentage is a strong indicator of how the children will  
29 perform in school;

30 (5) For the school year 2008-2009, 13,135 students were  
31 enrolled in prekindergarten, a number equal to approximately  
32 sixty-three percent of the number of students enrolled in  
33 kindergarten;

34 (6) Excluding projected increases due to increases in  
35 enrollment in the early childhood education program,  
36 projections indicate that total student enrollment in West

37 Virginia will decline by one percent, or by approximately  
38 2,704 students, by the school year 2012-2013;

39 (7) In part, because of the dynamics of the state aid  
40 formula, county boards will continue to enroll four-year-old  
41 students to offset the declining enrollments;

42 (8) West Virginia has a comprehensive kindergarten  
43 program for five-year-olds, but the program was established  
44 in a manner that resulted in unequal implementation among  
45 the counties which helped create deficit financial situations  
46 for several county boards;

47 (9) Expansion of current efforts to implement a  
48 comprehensive early childhood education program should  
49 avoid the problems encountered in kindergarten  
50 implementation;

51 (10) Because of the dynamics of the state aid formula,  
52 counties experiencing growth are at a disadvantage in  
53 implementing comprehensive early childhood education  
54 programs; and

55 (11) West Virginia citizens will benefit from the  
56 establishment of quality comprehensive early childhood  
57 education programs.

58 (c) Beginning no later than the school year 2012-2013,  
59 and continuing thereafter, county boards shall provide early  
60 childhood education programs for all children who have  
61 attained the age of four prior to September 1 of the school  
62 year in which the pupil enters the early childhood education  
63 program. Beginning no later than the school year 2016-2017,  
64 and continuing thereafter, early childhood education  
65 programs that are ~~full day and five days~~ at least four days per  
66 week, include one thousand two hundred minutes of  
67 instruction per week and include a minimum of one hundred  
68 forty-six instructional days per year shall be available to all  
69 children meeting the age requirement set forth in this  
70 subsection.

71 (d) The program shall meet the following criteria:

72 (1) It shall be voluntary, except, upon enrollment, the  
73 provisions of section one, article eight of this chapter apply

74 to an enrolled student, subject to subdivision (3) of this  
75 subsection;

76 (2) All children meeting the age requirement set forth in  
77 this section shall have the opportunity to enroll in a program  
78 that is ~~full day and five~~ at least four days per week, includes  
79 one thousand two hundred minutes of instruction per week and  
80 includes a minimum of one hundred forty-six instructional  
81 days per year; ~~The program may be for fewer than five days~~  
82 ~~per week and may be less than full day based on family need~~  
83 ~~if a sufficient number of families request such programs and~~  
84 ~~the county board finds that such programs are in the best~~  
85 ~~interest of the requesting families and students: *Provided, That*~~  
86 ~~the ability of families to request programs that are fewer than~~  
87 ~~five days a week or less than a full day does not relieve the~~  
88 ~~county of the obligation to provide all resident children with~~  
89 ~~the opportunity to enroll in a full-day program and~~

90 (3) A parent of a child enrolled in an early education  
91 program may withdraw a child from that program for good  
92 cause by notifying the district. Good cause includes, but is

93 not limited to, enrollment of the child in another program or  
94 the immaturity of the child. A child withdrawn under this  
95 section is not subject to the attendance provisions of this  
96 chapter until that child again enrolls in a public school in this  
97 state.

98 (e) Enrollment of students in Head Start or any other  
99 program approved by the state superintendent as provided in  
100 subsection (k) of this section may be counted toward  
101 satisfying the requirement of subsection (c) of this section.

102 (f) For the purposes of implementation financing, all  
103 counties are encouraged to make use of funds from existing  
104 sources, including:

105 (1) Federal funds provided under the Elementary and  
106 Secondary Education Act pursuant to 20 U. S. C. §6301, *et*  
107 *seq.*;

108 (2) Federal funds provided for Head Start pursuant to 42  
109 U. S. C. §9831, *et seq.*;

110 (3) Federal funds for temporary assistance to needy  
111 families pursuant to 42 U. S. C. §601, *et seq.*;

112       (4) Funds provided by the School Building Authority  
113       pursuant to article nine-d of this chapter;

114       (5) In the case of counties with declining enrollments,  
115       funds from the state aid formula above the amount indicated  
116       for the number of students actually enrolled in any school  
117       year; and

118       (6) Any other public or private funds.

119       (g) Each county board shall develop a plan for  
120       implementing the program required by this section. The plan  
121       shall include the following elements:

122       (1) An analysis of the demographics of the county related  
123       to early childhood education program implementation;

124       (2) An analysis of facility and personnel needs;

125       (3) Financial requirements for implementation and  
126       potential sources of funding to assist implementation;

127       (4) Details of how the county board will cooperate and  
128       collaborate with other early childhood education programs  
129       including, but not limited to, Head Start, to maximize federal  
130       and other sources of revenue;



131 (5) Specific time lines for implementation; and

132 (6) Any other items the state board may require by  
133 policy.

134 (h) A county board shall submit its plan to the Secretary  
135 of the Department of Health and Human Resources. The  
136 secretary shall approve the plan if the following conditions  
137 are met:

138 (1) The county board has maximized the use of federal  
139 and other available funds for early childhood programs;

140 (2) The county board has provided for the maximum  
141 implementation of Head Start programs and other public and  
142 private programs approved by the state superintendent  
143 pursuant to the terms of subsection (k) of this section; and

144 (3) If the Secretary of the Department of Health and  
145 Human Resources finds that the county board has not met  
146 one or more of the requirements of this subsection, but that  
147 the county board has acted in good faith and the failure to  
148 comply was not the primary fault of the county board, then  
149 the secretary shall approve the plan. Any denial by the

150 secretary may be appealed to the circuit court of the county  
151 in which the county board is located.

152 (i) The county board shall submit its plan for approval to  
153 the state board. The state board shall approve the plan if the  
154 county board has complied substantially with the requirements  
155 of subsection (g) of this section and has obtained the approval  
156 required in subsection (h) of this section.

157 (j) Every county board shall submit its plan for  
158 preapproval by the Secretary of the Department of Health and  
159 Human Resources and by the state board at least every two  
160 years after the initial approval of the plan and until full  
161 implementation of the early childhood education program in  
162 the county. As part of the submission, the county board shall  
163 provide a detailed statement of the progress made in  
164 implementing its plan. The standards and procedures provided  
165 for the original approval of the plan apply to any preapproval.

166 (k) A county board may not increase the total number of  
167 students enrolled in the county in an early childhood program  
168 until its program is approved by the Secretary of the

169 Department of Health and Human Resources and the state  
170 board.

171 (1) The state board annually may grant a county board a  
172 waiver for total or partial implementation if the state board  
173 finds that all of the following conditions exist:

174 (1) The county board is unable to comply either because:

175 (A) It does not have sufficient facilities available; or

176 (B) It does not and has not had available funds sufficient  
177 to implement the program;

178 (2) The county has not experienced a decline in  
179 enrollment at least equal to the total number of students to be  
180 enrolled; and

181 (3) Other agencies of government have not made sufficient  
182 funds or facilities available to assist in implementation.

183 Any county board seeking a waiver shall apply with the  
184 supporting data to meet the criteria for which they are  
185 eligible on or before March 25 for the following school year.  
186 The state superintendent shall grant or deny the requested  
187 waiver on or before April 15 of that same year.

188       (m) The provisions of subsections (b), (c) and (d), section  
189   eighteen of this article relating to kindergarten apply to early  
190   childhood education programs in the same manner in which  
191   they apply to kindergarten programs.

192       (n) Annually, the state board shall report to the  
193   Legislative Oversight Commission on Education  
194   Accountability on the progress of implementation of this  
195   section.

196       (o) Except as required by federal law or regulation, no  
197   county board may enroll students who will be less than four  
198   years of age prior to September 1 for the year they enter  
199   school.

200       (p) Neither the state board nor the state department may  
201   provide any funds to any county board for the purpose of  
202   implementing this section unless the county board has a plan  
203   approved pursuant to subsections (h), (i) and (j) of this  
204   section.

205       (q) The state board shall promulgate a rule in accordance  
206   with the provisions of article three-b, chapter twenty-nine-a

207 of this code for the purposes of implementing the provisions  
208 of this section. The state board shall consult with the  
209 Secretary of the Department of Health and Human Resources  
210 in the preparation of the rule. The rule shall contain the  
211 following:

- 212 (1) Standards for curriculum;
- 213 (2) Standards for preparing students;
- 214 (3) Attendance requirements;
- 215 (4) Standards for personnel; and
- 216 (5) Any other terms necessary to implement the  
217 provisions of this section.

218 (r) The rule shall include the following elements relating  
219 to curriculum standards:

- 220 (1) A requirement that the curriculum be designed to  
221 address the developmental needs of four-year-old children,  
222 consistent with prevailing research on how children learn;
- 223 (2) A requirement that the curriculum be designed to  
224 achieve long-range goals for the social, emotional, physical  
225 and academic development of young children;

226       (3) A method for including a broad range of content that  
227   is relevant, engaging and meaningful to young children;

228       (4) A requirement that the curriculum incorporate a wide  
229   variety of learning experiences, materials and equipment, and  
230   instructional strategies to respond to differences in prior  
231   experience, maturation rates and learning styles that young  
232   children bring to the classroom;

233       (5) A requirement that the curriculum be designed to  
234   build on what children already know in order to consolidate  
235   their learning and foster their acquisition of new concepts and  
236   skills;

237       (6) A requirement that the curriculum meet the recognized  
238   standards of the relevant subject matter disciplines;

239       (7) A requirement that the curriculum engage children  
240   actively in the learning process and provide them with  
241   opportunities to make meaningful choices;

242       (8) A requirement that the curriculum emphasize the  
243   development of thinking, reasoning, decision-making and  
244   problem-solving skills;

245 (9) A set of clear guidelines for communicating with  
246 parents and involving them in decisions about the  
247 instructional needs of their children; and

248 (10) A systematic plan for evaluating program success in  
249 meeting the needs of young children and for helping them to  
250 be ready to succeed in school.

251 (s) The secretary and the state superintendent shall submit  
252 a report to the Legislative Oversight Commission on  
253 Education Accountability and the Joint Committee on  
254 Government and Finance which addresses, at a minimum, the  
255 following issues:

256 (1) A summary of the approved county plans for  
257 providing the early childhood education programs pursuant  
258 to this section;

259 (2) An analysis of the total cost to the state and county  
260 boards of implementing the plans;

261 (3) A separate analysis of the impact of the plans on  
262 counties with increasing enrollment; and

263       (4) An analysis of the effect of the programs on the  
264   maximization of the use of federal funds for early childhood  
265   programs.

266       The intent of this subsection is to enable the Legislature  
267   to proceed in a fiscally responsible manner and make any  
268   necessary program improvements based on reported  
269   information prior to implementation of the early childhood  
270   education programs.

271       (t) After the school year 2012-2013, on or before July 1  
272   of each year, each county board shall report the following  
273   information to the Secretary of the Department of Health and  
274   Human Resources and the state superintendent:

275       (1) Documentation indicating the extent to which county  
276   boards are maximizing resources by using the existing  
277   capacity of community-based programs, including, but not  
278   limited to, Head Start and child care; and

279       (2) For those county boards that are including eligible  
280   children attending approved, contracted community-based  
281   programs in their net enrollment for the purposes of



282 calculating state aid pursuant to article nine-a of this chapter,  
283 documentation that the county board is equitably distributing  
284 funding for all children regardless of setting.